

**REMARKS**

Claims 10-18 were previously pending in the application. By the Amendment, claims 10, 16 and 18 are currently amended, claims 11, 12, 15 and 17 are canceled without prejudice, new claims 19-23 have been added, and claims 13 and 14 remain unchanged. Reconsideration in view of the above amendments and the following remarks is respectfully requested.

With regard to the objection to the Abstract, a revised Abstract is provided with this Amendment.

Claim 18 was rejected under 35 U.S.C. §112, second paragraph. Although it is not entirely clear why the limitation “holders for further components” fails to set forth the metes and bounds of the claim, claim 18 has been amended to more positively recite that the coffee machine further comprises holders provided on the securing means, the holders being configured to receive additional components of the coffee machine. Applicants submit that reference to “additional components” does not fail to set forth the metes and bounds of the claim. To the contrary, Applicants submit that those of ordinary skill in the art would readily appreciate the defined structure. Additionally, the specification provides an exemplary additional component as the reed switch 62 in the securing means 78. Those of ordinary skill in the art would appreciate similar “additional components” that could be received. Withdrawal of the rejection is requested.

The claims stand rejected under the cited prior art of record. Specifically, claims 10-15 were rejected under 35 U.S.C. §103(a) as being unpatentable over Fanzutti et al. (WO 03/030696) in view of Hufnagl (U.S. Patent No. 5,367,607). Additionally, claim 16

was rejected under 35 U.S.C. §103(a) as being unpatentable over Fanzutti in view of Hufnagl and Buzzi (U.S. Published Patent Application No. 2003/0108343), and claims 17 and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Fanzutti in view of Hufnagl and Green (U.S. Published Patent Application No. 2004/0009281).

Independent claim 10 recites a coffee machine for preparing coffee using coffee pads. The coffee machine includes a continuous heater provided with a water-guiding pipe that is thermally connected to two heating rods provided at opposite sides of the pipe by means of at least one contact surface. A pump transports water through the continuous heater. The at least one contact surface between the pipe and the heating rods is embodied such that it is flat. The pipe has ends into which hose-like flexible tube connecting pieces of a water supply and a water exit can be inserted, and the connecting pieces are made of plastic and comprise securing means for securing the continuous heater on a housing of the coffee machine.

With reference to claim 10, the Office Action recognizes that Fanzutti lacks at least the structure wherein a contact surface between the pipe and the heating rod is embodied such that it is flat. The Office Action contends, however, that Hufnagl discloses this feature and that it would have been obvious to modify Fanzutti to include a flat contact surface. Applicants respectfully disagree.

With reference to Fig. 1 in Hufnagl, Applicants respectfully submit that the contact surface between the heating element 3 and water pipe 6 is not flat. Hufnagl describes that the heating element 3 includes a flattened upper side 14 that is joined to the underside 13 of a water tube 6 by soldering. The spaces where the solder is applied

clearly evidence the non-flat contact surface between the tube 6 and the heating element

3. Hufnagl describes that it is the joining of the heating element 3 to the tube 6 *by soldering* that establishes a good thermal conduction.

Moreover, Fig. 4 in Fanzutti illustrates a circular water tube. If Fanzutti was modified as proposed in the Office Action to include a heating element having a flat surface as disclosed in Hufnagl, it is readily apparent that the connection between the flat surfaces of the heating element and the cylindrical pipe would substantially worsen a heat transfer characteristic of the structure. Even under the Supreme Court's *KSR* decision, obviousness requires combining known techniques to *improve* similar devices, whereas in the proposed combination, the resulting structure would considerably reduce the heat transfer effectiveness.

Claim 10 additionally recites that the heating rods are provided at opposite sides of the pipe. The Hufnagl patent, in contrast, provides a heating element 3 only on a bottom side of its water pipe 6. The Fanzutti structure thus modified by Hufnagl as proposed in the Office Action similarly falls short of this feature of the invention. That is, it is not readily apparent how the Hufnagl structure could be incorporated into the Fanzutti arrangement.

Despite these distinctions, claim 10 has been amended to include the subject matter of claims 11, 12, 15 and 17. Since claim 17 does not form part of this rejection, Applicants submit that the rejection is moot.

Reconsideration and withdrawal of the rejection are respectfully requested.

With regard to the rejection of claim 16, in view of the amendments noted above to claim 10, Applicants submit that this rejection is also moot. Withdrawal of the rejection is requested.

With regard to claim 17, as this rejection may be applied to amended claim 10, this rejection is respectfully traversed.

The Office Action recognizes that Fanzutti and Hufnagl lack at least the structure wherein the connecting pieces are made of plastic and comprise securing means for securing a continuous heater on a housing of the coffee machine. The Office Action contends, however, that Green discloses this subject matter and that it would have been obvious to utilize connecting pieces taught by Fanzutti as modified by Hufnagl made of plastic in view of Green. Applicants respectfully disagree.

Fanzutti is silent with regard to the materials to which the water pipe 140 is connected. The Hufnagl patent, however, is specific with regard to the materials of the tube 6 and the structure to which it is connected. Hufnagl specifically provides that both the tube 6 and the holding plate 15 are fabricated of a material conducting heat well and corresponding preferably to the material of the heater coil 7. In view of this teaching, modifying the heat conducting connecting pieces to be flexible connecting pieces made of plastic would be in direct contrast to the specific teachings in the Hufnagl patent. As such, Applicants respectfully submit that the rejection is misplaced.

For these and other reasons, the references of record do not disclose the subject matter defined by independent claim 10. Therefore, Applicants submit that claim 10 is allowable. Claims 13, 14, 16 and 18 depend from claim 10 and are allowable for the

same reasons and also because they recite additional patentable subject matter.

Reconsideration and withdrawal of the rejections are thus respectfully requested.

Claims 19-23 have been added. Claim 19 defines a coffee machine including, *inter alia*, two heating rods provided on opposite sides of the pipe and thermally connected to the pipe by corresponding contact surfaces. All of the contact surfaces between the two heating rods and the pipe are flattened. In contrast with this structure, as noted above, only the heating element 3 in Hufnagl includes a flattened upper surface, which is connected to its water tube 6 via soldering. Applicants thus submit that the structure of claim 19 is also distinguishable from the references of record. Claims 20-23 depend from claim 19 and correspond to claims 13, 14, 16 and 18, respectively.

**CONCLUSION**

In view of the above, entry of the present Amendment and allowance of Claims 10, 13, 14, 16 and 18-23 are respectfully requested. If the Examiner has any questions regarding this amendment, the Examiner is requested to contact the undersigned. If an extension of time for this paper is required, petition for extension is herewith made.

Respectfully submitted,

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